

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

MARION GOVAN, #221 463

*

Plaintiff,

*

v.

*

2:08-CV-145-WHA

THE UNITED STATES, *et al.*,

*

Defendants.

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ORDER ON MOTION

Pending before the court is Plaintiff's response to the court's order directing payment of an initial partial filing fee. Plaintiff asserts that he does not have sufficient funds in his inmate account to comply with the court's March 18, 2008 order directing him to submit an initial partial filing fee in the amount of \$7.02.

The court has considered Plaintiff's response and construes it as a request that he be allowed to proceed in this action without prepayment of the initial partial filing fee until such funds became available to him. Upon consideration of the motion, the court concludes that the motion shall be granted. Plaintiff is advised, however, that this court must, under the provisions of 28 U.S.C. § 1915(b)(1), "assess and, when funds exist, collect" the \$350.00 filing fee from monies available to Plaintiff, when the amount in Plaintiff's account exceeds \$10.00. The court may not waive or exempt Plaintiff from compliance with the statutory provisions regarding payment of filing fees. Accordingly, it is

ORDERED that Plaintiff's May 8, 2008 response, construed as Motion to Proceed

Without Payment of the Court-Ordered Initial Partial Filing Fee Until Funds Become Available (*Doc. No. 10*), be and is hereby GRANTED.

Done, this 13th day of May 2008.

/s/ Terry F. Moorer
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE